

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Nov 30, 2022**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL JAMES DOYLE (1),

Defendant.

No. 4:22-CR-06004-MKD-1

ORDER ACCEPTING REPORT AND  
RECOMMENDATION ON GUILTY  
PLEAS AND SETTING  
SENTENCING SCHEDULE

ECF No. 134

On November 10, 2022, Daniel James Doyle (1) appeared before United States Magistrate Judge Alexander C. Ekstrom and entered pleas of guilty to the following three counts of the Indictment filed on February 1, 2022: Count Three, charging him Unlawful User of a Controlled Substance in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(3), 924(a)(2); Count Six, charging him with Possession with Intent to Distribute 50 Grams or More of Actual Methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(viii); and Count 7, charging him with Possession with Intent to Distribute Fentanyl, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C). Defendant executed a written waiver

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1 of the right to enter his pleas of guilty before the presiding United States District  
2 Judge and a written consent to proceed before a United States Magistrate Judge.  
3 ECF No. 130. Defendant was represented by Jennifer Barnes and Paul Shelton.  
4 Assistant United States Attorney Timothy Ohms appeared on behalf of the United  
5 States.

6 United States Magistrate Judge Ekstrom filed a Report and Recommendation  
7 on November 15, 2022, ECF No. 134, finding the Defendant is fully competent  
8 and capable of entering an informed plea, that Defendant is aware of the nature of  
9 the charges and consequences of the plea, and that the plea of guilty is knowing,  
10 voluntary, is not induced by fear, coercion, or ignorance, and is supported by an  
11 independent basis in fact establishing each of the essential elements of the crime.

12 The Court adopts United States Magistrate Judge Ekstroms's report and  
13 recommendation, ECF No. 134, and accepts Defendant's pleas of guilty.

14 Accordingly, **IT IS HEREBY ORDERED:**

15 1. A sentencing hearing is set for **April 27, 2023, at 2:30 p.m.**, in Richland  
16 Courtroom 189. Absent truly exigent circumstances, the Court will not consider a  
17 request for a continuance of sentencing unless: (1) the request is made by written  
18 motion, (2) in accordance with LCivR 7, and (3) the motion and supporting  
19 declaration are filed at least seven (7) days before the scheduled sentencing  
20 hearing.

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1           2. Defendant shall remain released to pretrial supervision pursuant to the  
2 release conditions previously set. ECF Nos. 42, 90, 91, 138. If a sentence of  
3 incarceration is imposed, Defendant shall be taken into custody at the time of  
4 sentencing.

5           3. The United States Probation Office shall prepare a Presentence  
6 Investigation Report (PSR) pursuant to Fed. R. Crim. P. 32(c).

7           4. Not later than **March 21, 2023**, the Probation Officer shall disclose the  
8 PSR to Defendant, counsel for Defendant, and the United States. Disclosure of the  
9 PSR shall be subject to the limitations imposed by Rule 32 of the Federal Rules of  
10 Criminal Procedure.

11           5. Within 14 days of the disclosure of the PSR, counsel shall communicate  
12 in writing to the Probation Office (and opposing counsel) any objections they may  
13 have as to legal and factual errors or omissions; sentencing classifications;  
14 sentencing guideline ranges; and policy statements contained in or omitted from  
15 the report. Objections shall be numbered and identify the paragraph(s) to which  
16 the objection applies. Objections shall address the PSR in sequential order,  
17 beginning with the lowest numbered paragraph. If an objection is filed, the  
18 Probation Officer shall conduct such additional investigation as is necessary to  
19 assess the merits of the objection.

1           6. The Probation Officer shall submit the final PSR to the Court by **April**  
2 **17, 2023**. The PSR shall be accompanied by an addendum setting forth any  
3 objections counsel may have made, including those that have not been resolved,  
4 together with the officer's comments and recommendations thereon. The  
5 Probation Officer shall certify that the contents of the report, other than the  
6 sentencing recommendations, including any revisions or addenda, have been  
7 disclosed to counsel for Defendant and the United States, and that the addendum  
8 fairly states any remaining objections. Except with respect to any written objection  
9 made as required above, the PSR and computations shall be accepted by the Court  
10 as accurate. Upon a timely objection by Defendant, the United States bears the  
11 burden of proof on any fact that is necessary to establish the base offense level.  
12 The Court, however, for good cause shown, may allow that a new objection be  
13 raised at any time before the imposition of sentence. In resolving any disputed  
14 issues of fact, the Court may consider any reliable information presented by the  
15 Probation Officer, Defendant, or the United States.

16           Nothing in this Order requires the disclosure of any portions of the PSR that  
17 are not disclosable under Fed. R. Crim. P. 32. The PSR shall be deemed to have  
18 been disclosed: (1) when a copy of the report is physically delivered; or (2) one  
19 day after the report's availability for inspection is orally communicated; or (3)  
20

1 three days after a copy of the report or notice of its availability is mailed to  
2 counsel, whichever date is earlier.

3 7. Not later than **April 12, 2023**, counsel shall file and serve all motions and  
4 memoranda pertaining to Defendant's sentence, including departures and  
5 variances, and sentencing recommendations.

6 a. Counsel shall utilize the following format when preparing initial  
7 sentencing memoranda which are limited to 20 pages (absent prior  
8 Court permission to file an overlength brief): I. Offense Level &  
9 Criminal History, II. Departures, III. 18 U.S.C. § 3553(a).

10 b. Under Section I. Offense Level & Criminal History, counsel shall  
11 discuss whether the PSR's Total Offense Level calculations (not  
12 including departures) and Criminal History calculation are correct or  
13 incorrect, providing legal authority for the party's position.

14 c. Under Section II. Departures, counsel shall discuss whether a  
15 downward and/or upward departure is warranted under the Guidelines  
16 and provide legal authority for such position.

17 d. Under Section III. 18 U.S.C. § 3553(a), counsel shall discuss whether  
18 the resulting guideline range provides a reasonable sentence  
19 sufficient, but not greater than necessary to comply with the purposes  
20

1 set forth in 18 U.S.C. § 3553(a)(2), considering the other factors listed  
2 in § 3553(a).

3 e. **FAILURE TO FILE AND SERVE SENTENCING MATERIAL**  
4 **BY THIS DATE, TO INCLUDE MOTIONS OR MEMORANDA**  
5 **FOR UPWARD OR DOWNWARD DEPARTURE, WILL BE**  
6 **DEEMED A WAIVER OF THE RIGHT TO DO SO.**

7 8. Not later than **April 20, 2023**, the opposing party shall file and serve its  
8 response limited to no more than seven (7) pages.

9 9. If Defendant intends to qualify for the safety valve, the parties must  
10 schedule a meeting to conduct a safety valve interview to determine if the  
11 Defendant has met the requirements of U.S.S.G. § 5C1.2(a)(5) **no later than April**  
12 **6, 2023.**

13 10. If either party intends to call witnesses or proffer exhibits at sentencing,  
14 witness and exhibit lists must be exchanged by the parties and provided to the  
15 Court no later **April 20, 2023.**

16 11. Sentencings shall be scheduled for a total of 45 minutes. If it is believed  
17 that the sentencing hearing will last longer than 45 minutes, counsel shall contact  
18 Chambers no later than **April 20, 2023.**

1           12. All pending motions pertaining to Defendant are **DENIED as moot** and  
2 all pending hearing and trial dates pertaining to Defendant are **STRICKEN** from  
3 the Court's calendar.

4           13. By and through this Order, the District Court Executive is authorized to  
5 accept Defendant's payment in the amount of \$100 per count, for a total of  
6 \$300.00, toward Special Penalty Assessments.

7           **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
8 this Order and provide copies to counsel, the United States Probation Office, and  
9 the United States Marshals Service.

10           DATED November 30, 2022.

11                               s/Mary K. Dimke  
12                               MARY K. DIMKE  
13                               UNITED STATES DISTRICT JUDGE